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SUPREME COURT  
STATE OF WASHINGTON

2006 NOV -6 P 4:45

BY C.J. MERRITT

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re: ) BAR NO. 32549  
Theresa M. Sowinski, )  
An Attorney at Law. ) SUPREME COURT NO. 200,426-1  
 ) RESPONDENTS ANSWER TO PETITION  
 ) FOR INTERIM SUSPENSION

Comes now Theresa M. Sowinski, by and through her attorney Thomas S. Olmstead, and submits the following answer to the Petition for interim suspension filed on October 19, 2006.

1. As outlined in the declaration of Thomas S. Olmstead filed herein, Respondent has pending criminal charges against her filed under Snohomish County Superior Court cause Nos. 06-1-02765-0 and 06-1-01385-3. A review of the Petition filed by the Bar Association reveals that numerous grievance matters are also the subject of criminal charges against respondent.

2. Due to the pending criminal charges, Respondent's counsel has advised Respondent not to make any statements or provide documents to the Washington State Bar Association at the present time, pursuant to the Fifth and Fourteenth Amendments to the United States Constitution and ELC 5.4. Under Spevak v. Klein, 385 U.S. 511; 87 S.Ct. 625; 17 L.Ed.2d 574 (1967) the United

1 States Supreme Court held that the Fifth Amendment applies to  
2 Attorney's in disciplinary proceedings. Respondent should not  
3 have to choose between making incriminating statements that may  
4 be used against her in criminal proceedings, or face adverse  
5 action by the Bar Association for not providing requested  
6 information. As explained by the Spevak court, at page 516:

7  
8 The threat of disbarment and the loss of professional standing,  
9 professional reputation, and of livelihood are powerful forms of  
10 compulsion to make a lawyer relinquish the privilege. That threat is  
11 indeed as powerful an instrument of legal compulsion as "the use of  
12 legal process to force from the lips of the accused individual the  
13 evidence necessary to convict him. United States v. White, 322 U.S.  
14 694, 698.

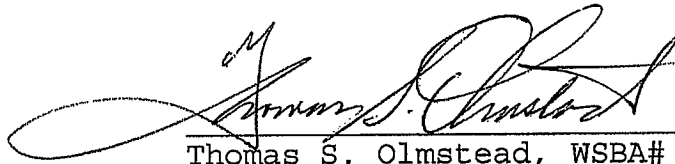
15 Because of the numerous ongoing criminal investigations,  
16 Respondent should not be compelled to give testimony or provide  
17 documents before the Bar Association regarding the various  
18 grievances against her during the pendency of criminal charges.  
19 Further, if the Bar Association wishes to obtain Respondent's  
20 testimony or obtain documents from Respondent, the Bar  
21 Association should enter into a written agreement with  
22 Respondent that no statements, documents or records she provides  
23 to the Bar Association will be provided to any law enforcement  
24 or prosecutorial authority.

25 Respondent should be granted complete immunity from  
criminal prosecution in connection with any testimony or  
documents provided to the Bar Association, including use of the  
testimony itself or the fruits thereof, and use immunity,

1 derivative use immunity and transactional immunity. See, e.g.,  
2 Garritty v. New Jersey, 385 U.S. 493, 499-500; 87 S.Ct. 616; 17  
3 L.Ed. 2d 562 (1967) (Holding that Fourteenth Amendment prohibits  
4 public employees from being compelled to testify in internal  
5 disciplinary proceedings, unless provided immunity from criminal  
6 prosecution).

7 As outlined in the declaration of Thomas S. Olmstead,  
8 Respondent's counsel is unable to respond to the underlying  
9 allegations in the Petition for Interim Suspension. Respondent  
10 may be willing to stipulate to interim suspension due to  
11 diminished mental capacity to participate in the above-captioned  
12 matter.

13  
14 RESPECTFULLY SUBMITTED this 6<sup>th</sup>. Day of November 2006.

15  
16  
17 

18 Thomas S. Olmstead, WSBA# 8170  
19 Attorney for Respondent

20  
21 FILED AS ATTACHMENT  
22 TO E-MAIL  
23  
24  
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FILED  
SUPREME COURT  
STATE OF WASHINGTON

2006 NOV - 6 A 8:09

BY C.J. MERRITT

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re: ) BAR NO. 32549  
Theresa M. Sowinski, )  
An Attorney at Law. ) SUPREME COURT NO. 200,426-1  
 ) DECLARATION OF THOMAS S.  
 ) OLMSTEAD IN RESPONSE TO  
 ) PETITION FOR INTERIM SUSPENSION

I, Thomas S. Olmstead, does submit the following declaration in response to the Petition for interim suspension filed on October 19, 2006.

1. I am over the age of 21 and competent to testify to the facts alleged herein.

2. I am the attorney of record for Respondent lawyer, Theresa M. Sowinski.

3. I also represent Ms. Sowinski with respect to Criminal Charges filed under Snohomish County Superior Court cause nos. 06-1-02765-0 and 06-1-01385-3. From my review of the Petition submitted by Ms. Matsumoto, it appears that several of the client matters referenced in the bar complaints are also the subject of pending criminal charges in Snohomish County Superior Court.

1 4. It is very likely that Ms. Sowinski will be asserting a  
2 defense of diminished capacity in the above-captioned  
3 disciplinary proceeding.

4 5. Pursuant to ELC 7.4, Ms. Sowinski may be willing to submit  
5 to interim suspension pending the outcome of the various  
6 criminal charges in Snohomish County Superior Court.

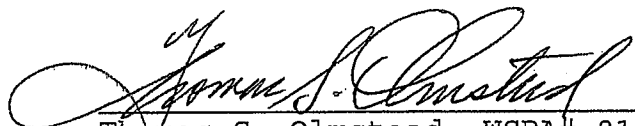
7 6. Based upon my review of the Petition for Interim  
8 Suspension, it would appear that the Washington State Bar  
9 Association is investigating several matters which are also the  
10 subject of pending criminal charges in Snohomish County Superior  
11 Court.

12 7. The Petition indicates that the Bar Association has been  
13 attempting to subpoena client records from Respondent, and take  
14 Respondent's deposition. Because several of the grievance  
15 matters are also the subject of pending criminal charges, at  
16 this time I am advising Ms. Sowinski to not make any statements  
17 or provide documents to the Bar Association regarding the  
18 grievance matters, pursuant to the fifth amendment to the United  
19 states Constitution and ELC 5.4.

20 8. Because of Ms. Sowinski's pending criminal charges, at this  
21 time I am unable to respond to the underlying allegations in the  
22 Petition for Interim Suspension.

23  
24 I declare under penalty of perjury under the laws of the State  
25 of Washington that the foregoing is true and correct.

1 Dated this 6<sup>th</sup> day of November,  
2 2006

3   
4 Thomas S. Olmstead, WSBA# 8170  
5 Attorney for Respondent

6 FILED AS ATTACHMENT  
7 TO E-MAIL  
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BY C.J. MERRITT

CLERK

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re:

Theresa M. Sowinski,  
Lawyer (Bar No. 32549)

Supreme Court No. 200,426-1

WSBA File Nos. 06-00910,  
06-01056 & 06-01259

DECLARATION OF MAILING

I, Nathan A. Randall, do declare as follows:

- 1) That I am over the age of 21 and not a party to the above-entitled cause.
- 2) That I am employed as a paralegal at the Law Office of Thomas S. Olmstead, 20319 Bond Rd. N.E., Poulsbo, WA 98370.
- 3) On November 6, 2006 I caused service of true and correct copies of the documents listed below:

- (i) Answer to Petition for Interim Suspension
- (ii) Declaration of Thomas S. Olmstead
- (iii) Declaration of Mailing

to the following parties via first class mail and facsimile:

DECLARATION OF MAILING-1

Law Office of Thomas S. Olmstead  
20319 Bond Rd NE  
Poulsbo, WA 98370  
Ph. 360.779.8980 Fax 360.779.8983

1 Via facsimile to (206) 727-8325  
2 Marsha Matsumoto  
3 Senior Disciplinary Counsel  
4 Washington State Bar Association  
5 2101 Fourth Avenue, Suite 400  
6 Seattle, WA 98121-2330

7 Via facsimile to (360) 357-2102  
8 ATTN: C.J. Merritt  
9 Supreme Court Clerks Office  
10 Temple of Justice  
11 P.O. Box 40929  
12 Olympia, WA 98504-0929

13  
14 I declare under penalty of perjury under the laws of the State of Washington that the foregoing is  
15 true and correct.

16 EXECUTED this 6 day of November 2006 at Poulsbo, Washington.

17   
18 Nathan A. Randall

19 FILED AS ATTACHMENT  
20 TO E-MAIL